

REMARKS

In item 2 of the Office Action, the Examiner rejected Claims 2 and 3 under the provision of 35 U.S.C. 112, first paragraph, for failing to comply with the enablement requirement because the claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or which it is most nearly connected, to make and/or use the invention.

Reconsideration in view of this amendment is respectfully requested.

The Examiner stated that it is unclear what structure allows portal 26 to move along guides 27 and what structure allows guides 27 to guide the portal because the specification does not provide any description of how the portal moves along the guides.

The specification at page 5, line 23, discloses that the portal structure (26) “can be displaced forwards and backwards along guides (27) according to double-pointed arrows (28).” This teaches that the portal (26) is moveable. It is not necessary to specify that manual or mechanical force is necessary as this is implicit in the disclosure that the structure is moveable by any appropriate means. The means for moving the structure are not claimed and it is not necessary to provide an illustration of means for moving the portal (26). For these reason, it is requested that the rejection of the claims under 35 U.S.C. § 112 first paragraph be withdrawn.

In item 4 of the Office Action, the Examiner rejected Claims 2 and 3 under the provision of 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Reconsideration in view of this amendment is respectfully requested.

Specifically, the Examiner suggested that it is uncertain what structure allows the portal to be displaced because the phrase “a portal structure which can be displaced forwards and/or backwards with respect to said bed” is unclear.

In response, Claim 2 has been amended and the term “movement” has been inserted in place of the term “displace” because the term “movement” more accurately represents the

action of the portal structure as represented by the double headed arrow depicted in original Figure 2.

The original paragraph starting on line 26, of page 5, and continuing to line 2, of page 6 has been amended to more clearly describe how the portal moves and where the guides are located. No new matter has been added and the claims are fully supported in the original disclosure. For these reasons, it is requested that the rejection of the claims under 35 U.S.C. § 112 paragraph second be withdrawn.

On page 3 of the Office Action the Examiner rejected Claims 1 and 4-6 under 35 U.S.C. § 103(a) as being unpatentable over EP 1136205 (herein after the `205 patent) to Gambini in view of Pulver et al., United States Patent No. 4,246,838 (hereinafter "Pulver").

Reconsideration in view of this amendment is respectfully requested.

The claims, as presently amended, are directed to a machine for cutting "logs" of kitchen and/or toilet paper into predetermined units of specific lengths. The Applicant claims a novel oscillating/rotating cutting head comprising a nozzle that directs a stream of high pressure water to simultaneously cut a plurality of paper logs. The cutting head is mounted on a portal structure which can be moved back and forth over the logs as they are pushed along a conveyor in measured increments. The invention eliminates the use of blades for cutting paper logs, and efficiently increases the speed at which the logs are cut by moving the cutting head back and forth over the machine's cutting bed. The danger of fire is also avoided.

The Examiner noted that the `205 patent describes a cutting machine with a bed, onto which at least two logs are fed through a conveyor with thrusters toward a cutting head and that the conveyor passes below the cutting head where the logs are cut transversely. Also, the conveyor is actuated by a stepper motor and that the logs are arranged in channels. However, as noted by the Examiner, the `205 patent fails to disclose a cutting device using high pressure water rotatably mounted to a movable portal structure, but that it would be obvious in view of the teachings of Pulver.

In this regard, Pulver discloses an apparatus for "slitting the upper surfaces of a plurality of essentially parallel rows of proofed dough," see Pulver at Claim 1. Applicant

acknowledges that Pulver describes a machine that use a plurality of nozzles, arranged on a stationary “cross piece,” that can emit streams of water under pressure, but in no way teaches or suggests the use of a single rotating/oscillating cutting head mounted on a movable portal.

Specifically, the Examiner suggests that Pulver teaches a “cutting nozzle (138) arranged on an arm (132) rotating around a pin,” however, a fair reading of Pulver reveals no such disclosure or suggestion. Pulver describes a nozzle that must be “adjusted” to a fixed position, and requires an adjustment be made on a first and second axis. More specifically, Pulver discloses a “nozzles 130 can be pivoted for adjustment about a first axis that is generally parallel to the direction of travel of the proofed dough pieces 125 and also about a second axis that is normal to the direction of travel of the proofed dough pieces 125,” see Col 3, lines 41-46.

As such, there is no suggestion for the nozzle to continuously rotate around a pin. Rather, the cited prior art teaches that the nozzle can be “pivoted for adjustment” by loosening and tightening the adjustment nuts and bolts. In fact, Pulver teaches away from the instant invention by disclosing a plurality of cutting nozzles set in preferred positions over each row of proofed dough. There is no teaching or suggestions for a machine having a single nozzle affixed to a movable portal that can rotate or oscillate transversely over the object to be cut.

The presently claimed invention provides a single, rotating/oscillating cutting head that uses a high pressure stream of water, and is mounted on a movable portal structure, for cutting “logs” of paper towels or toilet paper. The instant invention is not taught nor suggested in the cited prior art. For these reasons the §103(a) rejection over EP 1136205 in view of Pulver is not proper. Withdrawal of the rejection is therefore respectfully requested.

In item 8 of the Office Action the Examiner rejected Claims 2 and 3 under 35 U.S.C. § 103(a) as being unpatentable over EP 1136205 (herein after the ‘205 patent) to Gambini in view of Pulver et al., and in further view of Erickson et al. (hereinafter “Erickson”).

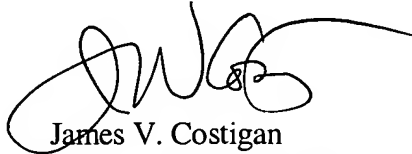
The Examiner cites Erickson because he teaches a portal structure that can be displaced forwards and backwards with respect to the bed. Therefore it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the '205 patent in view of Pulver with a movable portal structure, as taught by Erickson.

Applicant respectfully disagrees with the Examiner's suggestion that Erickson teaches a "portal structure" as presently claimed. Applicant agrees that Erickson discloses a method for cutting annular disks used in data storage systems. The method comprises an apparatus with a "transverse track 20," having "fluid jet heads 14" that can be displaced forwards and backwards along "parallel tracks 26 and 28" which are supported by "legs 30 on the floor 32," see Erickson at Col. 4, lines 7-15. In this regard, Erickson describes a bar that moves over a "stationary" piece of glass in need of cutting. The cited prior art does not teach or suggest a conveyor or a portal structure with a cutting device that moves in synchronization with the conveyor.

However, even if one were to combine the '205 patent, Pulver and Erickson the result would be **a plurality of fixed non-rotating nozzles that do not move in synchronization with a conveyor because the "transverse track" holding the nozzles is not in communication with a conveyor.** Further, it is impermissible to use the presently claimed invention as an instruction manual or template to piece together the teachings of the cited prior art so that the claimed invention is rendered obvious. *In re Gorman*, 933 F. 2d 982, 987, 18 USPQ2d, 1885, 1888 (Fed. Cir. 1991). See also, *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1138, 227 USPQ 543, 547 (Fed. Cir. 1985). Also, the courts have stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d at 1600 (Fed. Cir. 1988). As such, removal of the rejection under 35 U.S.C. §103(a) is therefore respectfully requested.

In view of the foregoing discussion, applicant respectfully submits that the pending claims are allowable over the cited prior art. Allowance of the claims is therefore respectfully solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'JVC', with a long horizontal flourish extending to the right.

James V. Costigan
Registration No. 25,669

MAILING ADDRESS

Hedman & Costigan, P.C.
1185 Avenue of the Americas
New York, NY 10036
(212) 302-8989